IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	Klaus LIETZAU
Serial No.:	10/530,613
Filing Date:	April 7, 2005
For:	MULTIVALUE CONTROL SYSTEM AND METHOD FOR CONTROLLING A MULTIVALUE CONTROLLED SYSTEM
Art Unit:	2121
Examiner:	Jennifer L. NORTON
Confirmation No.:	6750

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Signature: /Helen Tam/
Helen Tam

TRANSMITTAL OF APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37

S I R:

Transmitted herewith for filing in the above-identified patent application is an Appeal Brief Pursuant to 37 C.F.R. § 41.37.

The required Appeal Brief fee of **$540.00** under 37 C.F.R. 41.20(b)(2) is being paid by credit card. Additionally, Applicants hereby request a **five-month extension of time** for filing the Appeal Brief. A Notice of Appeal was filed and received by the U.S. Patent and Trademark Office on November 25, 2008 for which a two-month period to file an Appeal Brief, expiring on January 25, 2009, was set. The five-month extended period for response expires on **June 25, 2009**. The five-month extension fee of **$2,350.00** is being paid by credit card.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. **11-0600**.

Respectfully submitted,
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Dated: June 15, 2009

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[13806/13]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	Examiner: Jennifer L. Norton
Klaus LIETZAU	
For: MULTIVALUE CONTROL SYSTEM AND METHOD FOR CONTROLLING A MULTIVALUE CONTROLLED SYSTEM	
	Art Unit: 2121
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APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37

SIR:

On November 25, 2008, Appellant filed a Notice of Appeal from the last decision of the Examiner contained in the Final Office Action dated August 26, 2008 in the above-identified patent application.

In accordance with 37 C.F.R. § 41.37, this brief is submitted in support of the appeal of the rejections of claims 21 to 36. For at least the reasons set forth below, the final rejections of claims 21 to 36 should be reversed.

1. REAL PARTY IN INTEREST

The real party in interest in the present appeal is MTU AERO ENGINES GmbH of Muenchen in the Federal Republic of Germany, which is the assignee of the entire right, title and interest in and to the present application.

2. RELATED APPEALS AND INTERFERENCES

There are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellant or the assignee, MTU AERO ENGINES GmbH, "which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal."

3. STATUS OF CLAIMS

Claims 1 to 20 have been canceled.

Claims 21 to 36 are pending.

Claims 21 to 24, 27 to 29, and 32 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,171,055 ("Vos et al.").

Claims 25, 26, 30, and 31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Vos et al. and U.S. Patent No. 5,951,608 ("Osder").

Claim 33 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Vos et al. and U.S. Patent No. 6,856,039 ("Mikhail et al.").

Claims 34 to 36 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Vos et al., Mikhail et al., and Osder.

A copy of the appealed claims, *i.e.*, claims 21 to 36, is attached hereto in the Claims Appendix.

4. STATUS OF AMENDMENTS

In response to the Final Office Action dated August 26, 2008, Appellant submitted a "Reply Under 37 C.F.R. § 1.116" ("the Reply") on October 16, 2008. The Reply did not include any proposed amendments to the claims. As such, it is Appellant's understanding that the claims as included in the annexed "Claims Appendix" reflect the current status of the claims.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The present application includes three independent claims, *i.e.*, claims 21, 27, and 32.

Independent claim 21 relates to a multivalue control system 10. *Specification*, page 5, lines 2 to 3; Figure 1. Claim 21 recites that the system 10 includes a controlled multivalue system 11 including a plurality of correcting variables 14, 15 as input variables

and a plurality of controlled variables 12, 13 as output variables. *Specification*, page 5, lines 3 to 23; Figure 1. Claim 21 recites that the system 10 includes a plurality of controllers 28, 29. *Specification*, page 9, line 33 to page 10, line 20; Figure 1. Claim 21 recites that the system includes a plurality of comparators 24, 25 configured to ascertain control deviations 26, 27 and to supply a control deviation to each controller 28, 29 as an input variable. *Specification*, page 9, line 4 to page 10, line 20; Figure 1. Claim 21 recites that the system 10 includes a conversion device 32, input variables of the conversion device 32 corresponding to output variables 30, 31 of the controllers 28, 29. *Specification*, page 10, lines 25 to 29; Figure 1. Claim 21 recites that the conversion device 32 is configured to calculate, at least from the output variables 30, 31 of the controllers 28, 29, the correcting variables 14, 15. *Specification*, page 10, lines 31 to 34; Figure 1. Claim 21 recites that the conversion device 32 is configured to superimpose, on the output variables 30, 31 of the controllers 28, 29, an input control component that is a function of an actual value to calculate the correcting variables. *Specification*, page 13, lines 14 to 24; Figure 1.

Independent claim 27 relates to a method for controlling a controlled multivalue system 11. *Specification*, page 5, lines 33 to 35. Claim 27 recites that the method includes supplying a plurality of correcting variables 14, 15 to the controlled multivalue system 11 as input variables. *Specification*, page 5, lines 18 to 23; Figure 1. Claim 27 recites that the method includes offsetting a plurality of controlled variables 20, 21, 22, 23 against one another as output variables of the controlled multivalue system 11 to ascertain control deviations 26, 27. *Specification*, page 6, line 29 to page 7, line 8; and page 9, lines 4 to 31; Figure 1. Claim 27 recites that the method includes supplying each control deviation 26, 27 to a respective controller 28, 29 as an input variable. *Specification*, page 9, line 33 to page 10, line 20; Figure 1. Claim 27 recites that the method includes supplying output variables 30, 31 from the controllers 28, 29 to a conversion device 32 as input variables. *Specification*, page 10, lines 25 to 31; Figure 1. Claim 27 recites that the method includes calculating the correcting variables 14, 15 in the conversion device 32 at least from the output variables 30, 31 from the controllers 28, 29, the calculating including offsetting the output variables 30, 31 of the controllers 28, 29 against each other using an input control component that is a function of an actual value. *Specification*, page 10, lines 29 to 34; page 11, lines 19 to 28; and page 13, lines 14 to 24; Figure 1.

Independent claim 32 relates to a method for controlling a propeller power unit 11. *Specification*, page 5, lines 5 to 6, and 33 to 35; Figure 1. Claim 32 recites that the method includes controlling a propeller speed n_P and a propeller performance P_{PR} as

controlled variables 12, 13. *Specification*, page 5, lines 11 to 16; Figure 1. Claim 32 recites that the method includes supplying a propeller blade angle of incidence β and a fuel stream w_F to the propeller power unit 11 as correcting variables 14, 15. *Specification*, page 5, lines 18 to 23; Figure 1. Claim 32 recites that the method includes supplying output variables 30, 31 from controllers 28, 29 to a conversion device 32 as input variables. *Specification*, page 10, lines 25 to 31; Figure 1. Claim 32 recites that the method includes ascertaining, by the conversion device 32, the propeller blade angle of incidence β and the fuel stream w_F as the controlled variables from the output variables 30, 31 from the controllers 28, 29. *Specification*, page 10, line 25 to page 11, line 5; Figure 1. Claim 32 recites that the method includes offsetting, in the conversion device 32, the output variables 30, 31 from the controllers 28, 29 against each other. *Specification*, page 10, lines 29 to 31; Figure 1. Claim 32 recites that the method includes offsetting, in the conversion device 32, the output variables 30, 31 from the controllers 28, 29 using an input control component that is a function of an actual value. *Specification*, page 10, lines 29 to 34; page 11, lines 19 to 28; and page 13, lines 14 to 24; Figure 1.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 21 to 24, 27 to 29, and 32 are anticipated under 35 U.S.C. § 102(b) by Vos et al.

B. Whether claims 25, 26, 30, and 31 are unpatentable under 35 U.S.C. § 103(a) over the combination of Vos et al. and Osder.

C. Whether claim 33 is unpatentable under 35 U.S.C. § 103(a) over the combination of Vos et al. and Mikhail et al.

D. Whether claims 34 to 36 are unpatentable under 35 U.S.C. § 103(a) over the combination of Vos et al., Mikhail et al., and Osder.

7. ARGUMENT

A. Rejection of Claims 21 to 24, 27 to 29, and 32 Under 35 U.S.C. § 102(b)

Claims 21 to 24, 27 to 29, and 32 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,171,055 ("Vos et al."). It is respectfully submitted that Vos et al. do not anticipate the present claims for at least the following reasons.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention

must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). In other words, to be anticipatory, a single prior art reference must show all of the limitations of the claims arranged or combined in the same way as recited in the claims. *Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d 1359 (Fed. Cir. 2008).

Claim 21 relates to a multivalue control system, including, *inter alia*, a controlled multivalue system; a plurality of controllers; a plurality of comparators; and *a conversion device, input variables of the conversion device corresponding to output variables of the controllers, the conversion device configured to calculate, at least from the output variables of the controllers, the correcting variables, the conversion device configured to superimpose, on the output variables of the controllers, an input control component that is a function of an actual value to calculate the correcting variables*. Claims 27 and 32 include features analogous to the features included in claim 21.

Vos et al. do not disclose, or even suggest, all of the claimed features of claims 21, 27, and 32. Specifically, Vos et al. do not even refer to a conversion device. Instead, Vos et al. merely describe controllers 66, 68 connected directly to the engine, drivetrain, propeller, and actuators dynamics in Figure 2. The Final Office Action at page 3 asserts that element 30 of Vos et al. is a conversion device. However, element 30 of Vos et al. is merely a FADEC controller that includes controllers 66, 68. (Vos et al., col. 5, lines 48 to 52; and Figures 1 and 2). Thus, nowhere do Vos et al. disclose *a conversion device*, as provided for in the context of claims 21, 27, and 32. In further support, Vos et al. merely indicate that the FADEC controller 30 uses detected air flight conditions and the commanded thrust to access stored look-up tables of predetermined MAP and RPM set points, which are sent to the controllers 66, 68. (Vos et al., col. 6, lines 36 to 43; and col. 7, lines 1 to 15). Then, controllers 66, 68 merely output control signals directly to the engine 2 based on the received MAP and RPM set points. (Vos et al., col. 6, lines 22 to 24; and col. 7, lines 1 to 15). Thus, Vos et al. merely describe controllers 66, 68 that output, directly to the engine, control signals corresponding to predetermined set points, but do not output control signals to any conversion device. (Vos et al., col. 3, lines 6 to 12; and col. 4, lines 4 to 7). Further, Vos et al. do not describe any input control component superimposed on the output signals of the controllers by a conversion device. Therefore, Vos et al. do not disclose, or even suggest the features of *a conversion device, input variables of the conversion device corresponding to output variables of the*

controllers, the conversion device configured to calculate, at least from the output variables of the controllers, the correcting variables, the conversion device configured to superimpose, on the output variables of the controllers, an input control component that is a function of an actual value to calculate the correcting variables, as provided for in the context of claims 21, 27, and 32.

The Advisory Action cites column 6, lines 1 to 8, and 13 to 19, and column 7, lines 2 to 8, and 10 to 15 as assertedly disclosing the claimed features of claims 21, 27, and 32. However, these cited sections merely indicate that the FADEC of Vos et al. receives inputs from various sensors (column 6, lines 1 to 8, and 13 to 19), and outputs control signals to various servos (column 7, lines 2 to 8, and 10 to 15). Nonetheless, the Advisory Action conclusorily states that "Vos discloses the FADEC which uses output variables of the controllers (i.e. servos), wherein the FADEC transforms the outputs into a set point." However, Figure 1 of Vos et al. plainly shows that the FADEC merely outputs signals to the servos 6, 20, 24 (Pitch, Wastegate, and Throttle Servos), but does not receive any inputs from such servos. Further, Figure 2 of Vos et al. clearly shows that the controllers 66, 68 (Engine Power and Prop Speed Controllers) output only to the engine, drivetrain, propeller, and actuator dynamics, but do not output any information to any conversion device. In this regard, Vos et al. state that "FIG. 2 is a functional block diagram of the embodiment depicted in FIG. 1," and Figure 2 shows with absolute clarity that controllers 66, 68 output directly and only to engine, drivetrain, propeller, and actuator dynamics, without any intervening conversion device. Therefore, Vos et al. do not disclose, or even suggest the features of *a conversion device, input variables of the conversion device corresponding to output variables of the controllers, the conversion device configured to calculate, at least from the output variables of the controllers, the correcting variables, the conversion device configured to superimpose, on the output variables of the controllers, an input control component that is a function of an actual value to calculate the correcting variables*, as provided for in the context of claims 21, 27, and 32.

In view of the foregoing, it is respectfully submitted that Vos et al. do not anticipate claims 21, 27, and 32.

As for claims 22 to 24, which ultimately depend from claim 21 and therefore include all of the features included in claim 21, and claims 28 and 29, which depend from claim 27 and therefore include all of the features included in claim 27, it is respectfully submitted that Vos et al. do not anticipate these dependent claims for at least the same reasons more fully set forth above.

In view of all of the foregoing, reversal of this rejection is respectfully requested.

B. Rejection of Claims 25, 26, 30, and 31 Under 35 U.S.C. § 103(a)

Claims 25, 26, 30, and 31 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Vos et al. and U.S. Patent No. 5,951,608 ("Osder"). It is respectfully submitted that the combination of Vos et al. and Osder does not render unpatentable the presently pending claims for at least the following reasons.

Claims 25 and 26 ultimately depend from claim 21, and claims 30 and 31 ultimately depend from claim 27. As more fully set forth above, Vos et al. do not disclose, or even suggest, all of the features included in claims 21 and 27. Osder does not cure the critical deficiencies noted above.

Accordingly, it is respectfully submitted that the combination of Vos et al. and Osder does not disclose, or even suggest, all of the features included in claim 21, from which claims 25 and 26 ultimately depend, or claim 27, from which claims 30 and 31 ultimately depend. As such, it is respectfully submitted that the combination of Vos et al. and Osder does not render unpatentable claims 25 and 26, which ultimately depend from claim 21, or claims 30 and 31, which ultimately depend from claim 27.

In view of all of the foregoing, reversal of this rejection is respectfully requested.

C. Rejection of Claim 33 Under 35 U.S.C. § 103(a)

Claim 33 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Vos et al. and U.S. Patent No. 6,856,039 ("Mikhail et al."). It is respectfully submitted that the combination of Vos et al. and Mikhail et al. does not render unpatentable claim 33 for at least the following reasons.

Claim 33 depends from claim 32. As more fully set forth above, Vos et al. do not disclose, or even suggest, all of the features included in claim 32. Mikhail et al. do not cure the critical deficiencies noted above.

Accordingly, it is respectfully submitted that the combination of Vos et al. and Mikhail et al. does not disclose, or even suggest, all of the features included in claim 32, from which claim 33 depends. As such, it is respectfully submitted that the combination of Vos et al. and Mikhail et al. does not render unpatentable claim 33, which depends from claim 32.

In view of all of the foregoing, reversal of this rejection is respectfully requested.

D. Rejection of Claims 34 to 36 Under 35 U.S.C. § 103(a)

Claims 34 to 36 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Vos et al., Mikhail et al., and Osder. It is respectfully submitted that the combination of Vos et al., Mikhail et al., and Osder does not render unpatentable the present claims for at least the following reasons.

Claims 34 to 36 ultimately depend from claim 32. As more fully set forth above, Vos et al. do not disclose, or even suggest, all of the features included in claim 32. Also, as more fully set forth above, neither Mikhail et al. nor Osder cure the critical deficiencies noted above.

Accordingly, it is respectfully submitted that the combination of Vos et al., Mikhail et al., and Osder does not disclose, or even suggest, all of the features included in claim 32, from which claims 34 to 36 ultimately depend. As such, it is respectfully submitted that the combination of Vos et al., Mikhail et al., and Osder does not render unpatentable claims 34 to 36, which ultimately depend from claim 32.

In view of all of the foregoing, reversal of this rejection is respectfully requested.

8. CLAIMS APPENDIX

A "Claims Appendix" is attached hereto and appears on the four (4) pages numbered "Claims Appendix 1" to "Claims Appendix 4."

9. EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 or 1.132. No other evidence has been entered by the Examiner or relied upon by Appellant in the appeal. An "Evidence Appendix" is nevertheless attached hereto and appears on the one (1) page numbered "Evidence Appendix."

10. RELATED PROCEEDINGS APPENDIX

As indicated above in Section 2, "[t]here are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellant or the assignee, MTU AERO ENGINES GmbH,

'which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.'" As such, there are no "decisions rendered by a court or the Board in any proceeding identified pursuant to [37 C.F.R. § 41.37(c)(1)(ii)]" to be submitted. A "Related Proceedings Appendix" is nevertheless attached hereto and appears on the one (1) page numbered "Related Proceedings Appendix."

11. CONCLUSION

For at least the reasons indicated above, Appellant respectfully submits that the art of record does not disclose or suggest the subject matter as recited in the claims of the above-identified application. Accordingly, it is respectfully submitted that the subject matter as set forth in the claims of the present application is patentable.

In view of all of the foregoing, reversal of all of the rejections set forth in the Final Office Action is therefore respectfully requested.

Respectfully submitted,

Dated: June 15, 2009

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CLAIMS APPENDIX

21. A multivalue control system, comprising:

a controlled multivalue system including a plurality of correcting variables as input variables and a plurality of controlled variables as output variables;

a plurality of controllers;

a plurality of comparators configured to ascertain control deviations and to supply a control deviation to each controller as an input variable; and

a conversion device, input variables of the conversion device corresponding to output variables of the controllers, the conversion device configured to calculate, at least from the output variables of the controllers, the correcting variables, the conversion device configured to superimpose, on the output variables of the controllers, an input control component that is a function of an actual value to calculate the correcting variables.

22. The multivalue control system according to claim 21, wherein the conversion device is configured to calculate the correcting values by an offset of the output variables of the controllers against each other.

23. The multivalue control system according to claim 22, wherein the conversion device is configured to offset the output variables of the controllers as a function of the controlled multivalue system.

24. The multivalue control system according to claim 21, further comprising a first controlled variable conversion device, the controlled variables arranged to be supplied to the first controlled variable conversion device as input variables, the first controlled variable conversion device configured to ascertain output variables from the controlled variables and to supply the output variables to the comparators as first input variables.

25. The multivalue control system according to claim 24, further comprising a second controlled variable conversion device, setpoint values of the controlled variables configured to be supplied to the second controlled variable conversion device as input variables, the second controlled variable conversion device configured to ascertain output values from the setpoint values and to supply the output values to the comparators as second input variables.

26. The multivalue control system according to claim 25, wherein the comparators are configured to offset the first input variables against corresponding second input variables and to supply control deviations resulting from the offset to the controllers as input variables.

27. A method for controlling a controlled multivalue system, comprising:

supplying a plurality of correcting variables to the controlled multivalue system as input variables;

offsetting a plurality of controlled variables against one another as output variables of the controlled multivalue system to ascertain control deviations;

supplying each control deviation to a respective controller as an input variable;

supplying output variables from the controllers to a conversion device as input variables; and

calculating the correcting variables in the conversion device at least from the output variables from the controllers, the calculating including offsetting the output variables of the controllers against each other using an input control component that is a function of an actual value.

28. The method according to claim 27, further comprising ascertaining the correcting variables in accordance with the offsetting of the output variables of the controllers against each other.

29. The method according to claim 27, further comprising:

supplying the controlled variables of the controlled multivalue system to a first controlled variable conversion device as input variables;

ascertaining output variables by the first controlled variable conversion device from the controlled variables; and

supplying the output variables ascertained by the first controlled variable conversion device to comparators as first input variables.

30. The method according to claim 29, further comprising:

supplying setpoint values of the controlled variables to a second controlled variable conversion device as input variables;

ascertaining output variables by the second controlled variable conversion device from the setpoint values; and

supplying the output variables ascertained by the second controlled variable conversion device to the comparators as second input variables.

31. The method according to claim 30, further comprising:

offsetting the first input variables of the comparators and corresponding second input variables of the comparators against each other; and

supplying control deviations resulting from the offsetting of the first input variables of the comparators and the corresponding second input variables of the comparators to the controllers as input variables.

32. A method for controlling a propeller power unit, comprising:

controlling a propeller speed and a propeller performance as controlled variables;

supplying a propeller blade angle of incidence and a fuel stream to the propeller power unit as correcting variables;

supplying output variables from controllers to a conversion device as input variables;

ascertaining, by the conversion device, the propeller blade angle of incidence and the fuel stream as the controlled variables from the output variables from the controllers;

offsetting, in the conversion device, the output variables from the controllers against each other; and

offsetting, in the conversion device, the output variables from the controllers using an input control component that is a function of an actual value.

33. The method according to claim 32, further comprising:

supplying the propeller speed and the propeller performance as the correcting variables of the propeller power unit to a first controlled variable conversion device as input variables; and

outputting, by the first controlled variable conversion device, as output variables, actual values for the propeller speed and a turbine output.

34. The method according to claim 33, further comprising:

supplying setpoint values for the propeller speed and the propeller performance to a second controlled variable conversion device as input variables; and

outputting, by the second controlled variable conversion device, setpoint values for the propeller speed and the turbine output.

35. The method according to claim 34, further comprising:

ascertaining corresponding control deviations from the actual values and corresponding setpoint values for the propeller speed and the turbine output;

supplying the propeller speed control deviation to a speed controller; and

supplying the turbine output control deviation to a power controller.

36. The method according to claim 35, further comprising:

outputting a torque request as an output variable by the speed controller; and

outputting a turbine output request as an output variable by the power controller;

wherein the propeller blade angle of incidence and the fuel stream are ascertained in the propeller blade angle of incidence and the fuel stream ascertaining step in the conversion device from the torque request and the turbine output request.

EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§1.130, 1.131, or 1.132. No other evidence has been entered by the Examiner or relied upon by Appellant in the appeal.

RELATED PROCEEDINGS APPENDIX

As indicated above in Section 2 of this Appeal Brief, "[t]here are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellant or the assignee, MTU AERO ENGINES GmbH, 'which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.'" As such, there are no "decisions rendered by a court or the Board in any proceeding identified pursuant to [37 C.F.R. § 41.37(c)(1)(ii)]" to be submitted.